

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

United States of America,
Plaintiff/Respondent
v.
Barry Addison Gray,
Defendant/Petitioner

2:95-cr-00324-JAD

Order Lifting Stay and Denying Motion to Vacate Sentence under 28 U.S.C. § 2255

[ECF Nos. 33, 35]

Petitioner moves for habeas relief under 28 U.S.C. § 2255(a), arguing that the enhancement of his sentence under U.S. Sentencing Guidelines Manual § 4B1.1—commonly known as the career-offender provision—violated his due-process right because the provision’s residual clause is void for vagueness.¹ I stayed this petition in anticipation of the United States Supreme Court’s decision in *Beckles v. United States*.² The *Beckles* decision, issued today, squarely defeats petitioner’s claim: the High Court held that “the advisory Sentencing Guidelines are not subject to a vagueness challenge under the Due Process Clause.”³

In light of *Beckles*, the STAY IS LIFTED, and petitioner's motion to vacate his sentence under 28 U.S.C. § 2255 [ECF Nos. 33, 35] is DENIED.

Dated March 6, 2017


Jennifer A. Dorsey
United States District Judge

¹ ECF Nos. 33, 35.

² ECF No. 36.

³ *Beckles v. United States*, Case No. 15-8544, 580 U.S. , slip op. at 10 (Mar. 6, 2017).